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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
National Republican Senatorial)	
Committee)	
James L. Hagen, as treasurer)	MUR 2314
)	
)	
Jim Santini for Senate)	
J. Glen Sanford, as treasurer)	

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter involves possibly excessive contributions by the National Republican Senatorial Committee ("NRSC") to Jim Santini for Senate ("Santini Committee") in the form of conduited contributions over which the NRSC may have exercised direction or control and in the form of solicitation costs. On July 28, 1987, the Commission found reason to believe that the NRSC and its treasurer had violated 2 U.S.C. § 441a(h), that the Santini Committee and its treasurer had violated 2 U.S.C. § 441a(f), and that both committees had violated 2 U.S.C. § 434(b) and 11 C.F.R. § 110.6(d)(2). Following review of the information submitted in response to these findings and to the Commission's interrogatories and requests for documents, the Commission, on January 24, 1989, found reason to believe that the NRSC and its treasurer had violated 2 U.S.C. § 434(b) and 11 C.F.R. § 106.1 and that the Santini Committee and its treasurer had violated 2 U.S.C. § 434(b) and 11 C.F.R. § 110.6(c)(3). The Commission also approved subpoenas and orders for the submission of answers and documents to be sent to the NRSC and its treasurer, the Santini Committee and its treasurer, Anne Holbach, James C. Chachas, Acel

Robison, Miller/Roos & Company and Chris Miller, and Huckaby & Associates and J. Stanley Huckaby.

II. ANALYSIS

All of those to whom subpoenas were directed have submitted a response, the last one being filed with this Office on June 2, 1989. The NRSC requested an extension of time to respond to the Commission's interrogatories and twice informed this Office that there would be further delay in filing a complete response. See Attachment 1. On May 24, 1989, the NRSC filed its response in which it requested that the Commission and the NRSC enter into preprobable cause conciliation on some issues in this matter, asserting that the remaining issues were effectively resolved in MUR 2282.

Specifically, the NRSC contends that the Commission's final determination in MUR 2282 provides the basis upon which the Commission should take no further action with respect to the "direction and control" findings set out in the notification letter for the July 28, 1987, findings. NRSC says that it is not proposing to enter into preprobable cause conciliation on those issues. Instead, it proposes to enter into conciliation only with respect to the findings relating to the allocation and reporting of certain solicitation costs included in the notification letter of the January 24, 1989, findings.

The NRSC's response requires further review and analysis before a recommendation regarding its conciliation request can be substantively addressed. We note that its response to the Commission's latest set of questions must be reviewed and

evaluated along with the other recently received responses and in conjunction with the large volume of material previously produced in this matter. Moreover, this matter involves solicitation and earmarking other than the activity investigated in MUR 2282. MUR 2282 involved only a part of one of the five operations of the Direct-To Program, the NRSC's conduit program. This matter pertains to other Direct-To activities and involves different factual circumstances entailing a separate legal analysis. Furthermore, in its conciliation request, the NRSC argues that only the solicitation costs for the five operations of the Direct-To Program should be considered and not any costs allocable from general solicitations. The conduct of the Direct-To Program, however, included general solicitations made in contemplation of subsequently contacting contributors to have the contributions earmarked to Jim Santini, as well as other candidates.

Based on the foregoing factors, this Office recommends that the Commission decline at this time to enter into preprobable cause conciliation with NRSC and its treasurer.

III. RECOMMENDATIONS

1. Decline, at this time, to enter into conciliation with the National Republican Senatorial Committee and James L. Hagen, as treasurer, prior to a finding of probable cause to believe.
2. Approve the attached letter.

Date

July 10/889

Lawrence M. Noble
General Counsel

Attachments

1. Letters from NRSC on delays
2. Request for conciliation
3. Proposed letter

Staff Assigned: Jonathan Levin